

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

ORDER

Asstt. Commissioner, Circle Bhiwadi

Vs.

M/s. Nidhi Pipes Limited

S.B. Sales Tax Revision Petition No. 7/2005

Date of order :: July 13, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Amit Ratnawat on behalf of Mr. R.B. Mathur for the petitioner
Mr. Vivek Singhal for the respondent

BY THE COURT:

Heard learned counsels for the parties. The Tax Board by the impugned order dated 17.09.2004 has set aside the penalty under Section 78(5) of the RST Act, 1994 on the ground that the same was imposed by the assessing authority and upheld by the first appellate authority only on the ground that though other relevant documents

like bill and bilty accompanied the goods in transit, but the declaration in Form ST 18-A under Rule 53 was incompletely filled up. The Tax Board has found that merely for this technical or venial breach, penalty under Section 78(5) could not be imposed as no intention to evade tax could be inferred on the basis of the said lapse, which could occur at the end of the consignor or the consignee. It is not in dispute that both the dealers are registered dealers and the prescribed documents like bill and bilty, the genuineness of which was not even doubted by the Revenue authorities, accompanied the goods in transit, and therefore, the discretion not to impose the penalty under Section 78(5) of the Act used in favour of the assessee by the Tax Board, cannot be faulted and no question of law can be said to arise out of the said order of the Tax Board.

The present revision petition of the Revenue is, thus, devoid of merit and the same is dismissed.

(Dr.VINEET KOTHARI),J.

Pramod